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MARSH FISCHMANN & BREYFOGLE LLP
8055 E. Tufts Avenue, Suite 450
Denver CO 80237

In re Application of :
Li GONG : ON PETITION
Application No. 08/883,636 :
Filed: June 26, 1997 :
Atty. Docket No.: 3070-004 :

This is a decision on the petition filed January 10, 2011, which is a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the final Office action mailed September 24, 2001, which set a shortened statutory period of reply of three (3) months. A Notice of Abandonment was mailed June 8, 2005.

A grantable petition under 37 CFR 1.181 requires evidence that an appropriate reply was timely mailed or filed.

Petitioner states that a reply was in fact timely filed. To support this assertion, Petitioner has submitted a copy of a return receipt postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on January 24, 2002 of, *inter alia*, Notice of Appeal and 1-month Extension of Time. A copy of the previously submitted reply accompanies the petition. Additionally, the instant petition is accompanied by a copy of an Appeal Brief along with a copy of a return receipt postcard acknowledging the receipt of the Appeal Brief by the Office on March 25, 2002.

MPEP 503 states that, “[a] post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.” Accordingly, it is concluded that the Notice of Appeal and 1-month Extension of Time were timely received in the USPTO. It is further acknowledged that an appeal brief and fee therefor were timely received on March 25, 2002. The copy of the Appeal Brief supplied with the petition will be accepted in place of the appeal brief shown to have been received by the USPTO on March 25, 2002.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Robert DeWitty at 571-272-8427.

The application is being forwarded to Technology Center Art Unit 2137 for consideration of the Appeal Brief and also the request seeking reconstruction of the above-identified application under 37 CFR 1.251.



for
Anthony Knight
Director
Office of Petitions